

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA

In re:

RODNEY L. WRIGHT
Debtor

JOHN W. VAN DYKE, JR.,
Plaintiff

v.

RODNEY L. WRIGHT
Defendant

CHAPTER 7
Case No.

L-91-01588-C

FILED
U.S. BANKRUPTCY COURT
NORTHERN DISTRICT OF IOWA
MAR 29 1993
BARBARA A. EVERLY, CLERK

Adversary Proceeding No.
L-91-0243-C

JUDGMENT

The issues of this proceeding having been duly considered by the Honorable Irvin N. Hoyt, United States Bankruptcy Judge, and a decision having been reached without trial or hearing,

IT IS ORDERED AND ADJUDGED: that plaintiff's Motion for Sanctions is granted. Judgment is entered in favor of plaintiff in the sum of \$125,000 together with interest and court costs as by law provided. This judgment shall be and is hereby declared to be non-dischargeable in any bankruptcy proceeding.



[Seal of the U.S. Bankruptcy Court]
Date of Issuance: March 29, 1993

BARBARA A. EVERLY
Clerk of Bankruptcy Court

By: *Marian A. Goley*
Deputy Clerk

Recorded Vol III
Page 158

Copy to:
Frank Baron and Jef Sar;
Rodney Wright
U.S. Trustee
this April 1, 1993 mg

I Certify that this is a true Co.,

PATRICIA MERRITT
CLERK U.S. BANKRUPTCY COURT

Attest

Juanita Leafgreen
Juanita Leafgreen
Deputy Clerk

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION

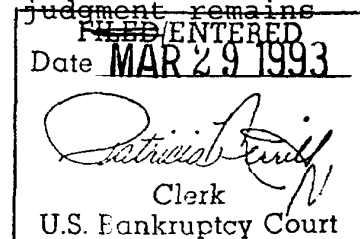
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IN RE:)	CHAPTER 7
)	BANKRUPTCY NO. L-91-01588C
RODNEY L. WRIGHT,)	
Debtor.)	
<hr/>		
JOHN W. VAN DYKE, JR.,)	ADVERSARY NO. L-91-0243C
Plaintiff,)	<u>ORDER</u>
vs.)	
RODNEY L. WRIGHT,)	
Defendant.)	

-- oOo --

This matter comes before the Court pursuant to Plaintiff's Motion for Sanctions. No resistance has as yet been filed.

The facts of this Motion for Sanctions before the Court are clearly set forth in the Motion. Prior to the filing of this bankruptcy, Defendant, Rodney L. Wright, was served with a Subpoena requiring his presence at a deposition to be held in Cedar Rapids, Iowa, on May 2, 1991. In addition to the Subpoena which was personally served on Mr. Wright, a Notice of Deposition was also served upon his attorney of record. Mr. Wright appeared but refused to give testimony. Ultimately, a monetary judgment was rendered against him as a sanction. This judgment remains



unpaid.

Mr. Wright thereafter filed bankruptcy and the present adversary proceeding was commenced. In connection with this adversary proceeding, a Notice of Deposition of Mr. Wright, was served upon his attorney setting forth the deposition date of September 23, 1992.

Mr. Wright's attorney forthwith moved for a protective order quashing the Notice of Deposition and delaying the deposition. That Motion was granted. He also moved to withdraw.

Thereafter, an Order setting a status conference herein was sent out on December 8, 1992. That Order required that a party not represented by counsel shall appear in person. However, Mr. Wright did not appear.

On January 28, 1993, a telephonic status conference was held again upon notice to Mr. Wright. Mr. Wright failed to appear. The Order entered at that time granted the Motion to Withdraw as Counsel filed by Mr. Wright's prior attorney and set forth that Attorney Sar would file a notice of a deposition date. This Order was mailed to Mr. Wright.

Attorney Sar did send to Mr. Wright a Notice of Deposition setting a deposition date of March 11, 1993. Mr. Wright failed to appear. He filed no Motion to Quash or made any contacts with the Court or the opposing party seeking any change in the time of the deposition.

Rule 37(d) of the Federal Rules of Civil Procedure

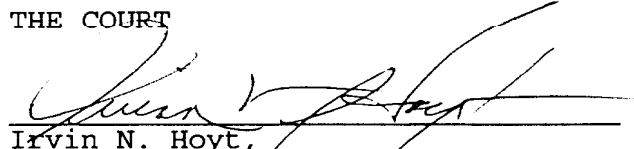
provides that if a party fails to appear before the officer who is to take a deposition after being served with proper notice, the Court may make such orders in regard to the failure as are just and among other may take any action authorized under Paragraphs (A), (B), and (C) of sub-division (b) (2) of Rule 37.

The Court finds that a judgment by default against the disobedient party is the most appropriate remedy herein. The Court further finds that the Complaint filed herein sets forth multiple prayers for judgment, the smallest of which is prayer for a non-dischargeable judgment against the Defendant/Debtor in the sum of \$125,000.00 together with interest as by law provided and court costs. The Court determines that this is an appropriate sanction.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that Plaintiff's Motion for Sanctions is granted. The Clerk of Court shall be and hereby directed to enter judgment in favor of the Plaintiff in the sum of \$125,000.00 together with interest and court costs as by law provided. Such judgment shall be and is hereby declared to be non-dischargeable in any bankruptcy proceeding.

Dated this 29th day of March, 1993.

THE COURT


Irvin N. Hoyt,
Chief Bankruptcy Judge

NOTICE OF ENTRY

Pursuant to BR 9012

Entered on Docket: 3-29-93

Date Mailed: 3-29-93 By: WLP

Copy mailed to: Frank Baron and Jef Sar; Rodney Wright, U.S. Trustee this 4/16/93 mg